

BEFORE THE
ILLINOIS COMMERCE COMMISSION

IN THE MATTER OF:

STATE OF ILLINOIS, DEPARTMENT
OF TRANSPORTATION

Petitioner

VS.

No. T13-0023

CANADIAN NATIONAL RAILWAY
d/b/a ILLINOIS CENTRAL RAILROAD
COMPANY

Respondent

Petition for an order to reconstruct the two highway overpass structures designated as existing structure nos. 038-0013 (N.B.) and 038-0014 (S.B.) AAR/DOT #288 972S, railroad milepost 70.10 over 157 near Clifton, Iroquois County, Illinois

Chicago, Illinois
March 12th, 2013

Met, pursuant to notice, at 10:00 a.m.

BEFORE :

MR. TIMOTHY DUGGAN, Administrative Law Judge

1 APPEARANCES:

2 ILLINOIS COMMERCE COMMISSION

BY: MR. JOSEPH VON DE BUR

3 527 East Capitol Avenue

Springfield, Illinois 62701

4 (217) 557-1286

for the Illinois Commerce Commission

5

ILLINOIS CENTRAL RAILROAD COMPANY

6 BY: MR. THOMAS HEALEY

17641 South Ashland Avenue

7 Homewood, Illinois 60430

(708) 332-4381

8 for the Illinois Central Railroad Company

9 ILLINOIS DEPARTMENT OF TRANSPORTATION

BY: MR. LAWRENCE D. PARRISH

10 100 West Randolph Street

Suite 6-600

11 Chicago, Illinois 60601

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12 for the Illinois Department of Transportation

13 L.A. COURT REPORTERS

Steven J. Brickey

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I N D E X

| | Re- | Re- | By |
|------------|--------|-------|--------------|
| Witnesses: | Direct | Cross | direct cross |
| | | | Examiner |
| None. | | | |

E X H I B I T S

| Number | For Identification | In Evidence |
|-----------------|--------------------|-------------|
| Staff Exhibit 1 | 7 | 8 |

1 JUDGE DUGGAN: Pursuant to the
2 authority vested in me by the State of Illinois
3 and the Illinois Commerce Commission, I now call
4 Docket 1300-23 for hearing. May we have
5 appearances for the record starting with
6 Mr. Parrish?

7 MR. PARRISH: Lawrence Parrish with
8 the Illinois Department of Transportation. I'm
9 located at 100 West Randolph, Chicago, Illinois,
10 6th Floor 60601. Telephone number (312) 793-5737.

11 JUDGE DUGGAN: Mr. Healey?

12 MR. HEALEY: Good morning, your
13 Honor. Thomas Healey, H-E-A-L-E-Y, on behalf of
14 respondent Illinois Central Railroad Company. My
15 office address is 17641 South Ashland Avenue in
16 Homewood, Illinois 60430. Telephone number
17 (708) 332-4381.

18 JUDGE DUGGAN: Okay.

19 Mr. Von de Bur?

20 MR. VON DE BUR: Yes, your Honor.
21 Representing staff of the Illinois Commerce
22 Commission, Joseph Von de Bur, V-O-N, D-E, B-U-R,

1 527 East Capitol Avenue, Springfield, Illinois
2 62701. Phone number is (217) 557-1286.

3 JUDGE DUGGAN: Okay. We'll note
4 that there are no witnesses today. That is the
5 intent of the parties and request of the parties
6 that we take evidence by means of stipulations.
7 I'll note that IDOT filed an amended petition and,
8 Mr. Parrish, you make a motion for leave to file
9 that amended petition, is that correct?

10 MR. PARRISH: Yes, your Honor. So
11 moved.

12 JUDGE DUGGAN: Okay. Then leave to
13 file the amended petition is granted as of the
14 date that, in fact, it was filed on E-docket. Are
15 the parties agreeable then or wishing to stipulate
16 that the factual allegations made in the amended
17 petition are true and accurate and can be taken as
18 evidence in this matter with one change, that
19 paragraph six where it refers to Exhibit's 3 as
20 well as 3A, 3B, 3C and 3D attached to that amended
21 petition as being the finalized prints and general
22 drawings that in lieu thereof we'd want to

1 stipulate that those final prints and drawings are
2 represented by an Attachment 2 -- what has been
3 marked as Exhibit 2 attached to the petition,
4 which is an agreement between IC and IDOT and
5 attached to that is Exhibit A, which also has
6 several pages identified as the proposed plans.
7 If anybody followed all that, is that your desire
8 to stipulate to those facts, Mr. Parrish?

9 MR. PARRISH: IDOT so stipulates,
10 your Honor.

11 JUDGE DUGGAN: Mr. Healey?

12 MR. HEALEY: Yes, your Honor.

13 JUDGE DUGGAN: Mr. Von de Bur?

14 MR. VON DE BUR: Agreed.

15 JUDGE DUGGAN: Thank you.

16 MR. VON DE BUR: So stipulated.

17 JUDGE DUGGAN: Okay. Then I think
18 for clarification certain matters may not be
19 crystal clear to me from the amended petition. Is
20 it also something to stipulate to that the two
21 overpasses referred to here on I-57 over the IC
22 tracks are one overpass being two lane northbound

1 on I-57 and the other overpass being two lanes
2 southbound on I-57 both being part of I-57, but
3 they're separated bridges, is that something you
4 can stipulate to, Mr. Parrish?

5 MR. PARRISH: Yes, your Honor.

6 JUDGE DUGGAN: Mr. Healey?

7 MR. HEALEY: Yes, your Honor.

8 JUDGE DUGGAN: Mr. Von de Bur?

9 MR. VON DE BUR: Yes, your Honor.

10 JUDGE DUGGAN: Okay. Also I think
11 so we do have a physical exhibit document referred
12 to separate from the petition that the document
13 that is labeled as Exhibit 2 attached petition
14 with its attachment Exhibit A being the agreement
15 between IC and IDOT we'll pull that out as a
16 separate document and mark that as Exhibit A. Is
17 that agreeable, Mr. Parrish?

18 (Document marked as Staff
19 Exhibit No. 1 for
20 identification.)

21 MR. PARRISH: Yes, your Honor, it
22 is.

1 JUDGE DUGGAN: Excuse me. That's
2 going to be confusing. I'll put it as Exhibit 1.
3 Is that agreeable, Mr. Parrish?

4 MR. PARRISH: Yes.

5 JUDGE DUGGAN: Mr. Healey?

6 MR. HEALEY: Yes, your Honor.

7 JUDGE DUGGAN: Mr. Von de Bur?

8 MR. VON DE BUR: Yes, your Honor.

9 JUDGE DUGGAN: And then we will have
10 that Exhibit 1 with its Attachment A admitted into
11 evidence as an IDOT exhibit. Mr. Parrish?

12 MR. PARRISH: Yes, your Honor.

13 JUDGE DUGGAN: Okay. Any objection,
14 Mr. Healey?

15 MR. HEALEY: No, your Honor.

16 JUDGE DUGGAN: Any objection,
17 Mr. Von de Bur?

18 MR. VON DE BUR: No objection,
19 Judge.

20 JUDGE DUGGAN: Okay. Then that
21 Exhibit 1 being the agreement between IC and IDOT
22 with its Attachment A will be admitted into

1 evidence and the order will contain a provision
2 stating that construction shall be consistent with
3 the highway plans introduced into evidence as
4 Exhibit A -- excuse me -- Appendix A attached to
5 Exhibit 1. Is that agreeable as stipulated,
6 Mr. Parrish?

7 MR. PARRISH: Yes, your Honor, it
8 is.

9 JUDGE DUGGAN: Mr. Healey?

10 MR. HEALEY: Yes, your Honor.

11 JUDGE DUGGAN: Mr. Von de Bur?

12 MR. VON DE BUR: Yes, your Honor.

13 JUDGE DUGGAN: Okay. And off the
14 record Mr. Von de Bur interpreted these plans to
15 show -- to state that the present vertical
16 clearance of these overpasses or the minimum
17 vertical clearance is 22'5" and the plans call for
18 that minimum vertical clearance to be 23'. Is
19 that consistent with your understanding and
20 something you would stipulate to, Mr. Parrish?

21 MR. PARRISH: Yes, your Honor.

22 JUDGE DUGGAN: Mr. Healey?

1 MR. HEALEY: Yes, your Honor.

2 JUDGE DUGGAN: Mr. Von de Bur?

3 MR. VON DE BUR: Yes, your Honor.

4 JUDGE DUGGAN: Thank you. Also off
5 the record Mr. Von de Bur determined that the
6 project built consistently with Appendix 1 to
7 Appendix A to Exhibit 1 would have a horizontal
8 clearance -- a minimum horizontal clearance of
9 16'4" on the east and 35'11" on the west. Is that
10 consistent with your understanding and something
11 that you agree to stipulate to here today,
12 Mr. Parrish?

13 MR. PARRISH: Yes, your Honor.

14 JUDGE DUGGAN: Mr. Healey?

15 MR. HEALEY: Yes. If that's in the
16 materials, then, yes, we do stipulate to it
17 because I know they've been reviewed.

18 JUDGE DUGGAN: Mr. Von de Bur?

19 MR. VON DE BUR: Yes, your Honor.

20 That's my observation.

21 JUDGE DUGGAN: Off the record.

22

1 (Whereupon, a discussion was had
2 off the record.)

3 JUDGE DUGGAN: Off the record the
4 plans were reviewed so the attorneys for the
5 parties and Mr. Von de Bur could further confirm
6 what they were stipulating to. So following the
7 off the record discussion, Mr. Healey, are you
8 able to stipulate that the plans in
9 Attachment 1 -- excuse me -- Attachment A to
10 Exhibit 1 shows that the project as planned would
11 have a 16'4" horizontal clearance on the east of
12 the track and a 35'11" clearance on the west of
13 the track at a minimum?

14 MR. PARRISH: I think he is asking
15 you.

16 MR. HEALEY: Yes, your Honor and we
17 so stipulate.

18 JUDGE DUGGAN: Mr. Von de Bur?

19 MR. VON DE BUR: Yes, your Honor.

20 JUDGE DUGGAN: All right. And do
21 the parties want to waive ex parte prohibition so
22 we may talk to each other informally for the

1 purpose of getting an order drafted. Mr. Parrish?

2 MR. PARRISH: Yes.

3 JUDGE DUGGAN: Mr. Healey?

4 MR. HEALEY: Yes.

5 JUDGE DUGGAN: Mr. Von de Bur?

6 MR. VON DE BUR: Yes, your Honor.

7 JUDGE DUGGAN: Okay.

8 MR. HEALEY: You are talking about
9 the draft order for review, correct, Judge?

10 JUDGE DUGGAN: The plan would be
11 that one of us will draft an order, probably me,
12 and then I will run it through Joe who will run it
13 through each of you and return with comments and
14 hopefully we will all be able to come to an order
15 that is agreeable to everybody in which case at
16 which point that would be issued as a proposed
17 order, but it'll hopefully be more expedited
18 because we already know what we're doing.

19 MR. PARRISH: Right.

20 JUDGE DUGGAN: That's the plan.

21 However, once you limit the ex parte -- I did say
22 it was for purposes of preparing a draft order.

1 If you need any more clarification --

2 MR. HEALEY: No. That's fine,
3 Judge.

4 JUDGE DUGGAN: Okay.

5 MR. HEALEY: Very good. I must have
6 missed the word draft.

7 JUDGE DUGGAN: Okay. I may have
8 left it off. Who knows. Mr. Parrish, paragraph
9 one states that the project includes replacement
10 of the existing superstructures, including
11 widening of the substructures. Is the overall
12 project to widen the roadway itself or do you
13 know?

14 MR. PARRISH: I'm not really sure
15 about that, your Honor. I don't know.

16 JUDGE DUGGAN: But the substructures
17 means that it's a support system, correct?

18 MR. PARRISH: Correct.

19 JUDGE DUGGAN: Off the record one
20 more time.

21 (Whereupon, a discussion was had
22 off the record.)

1 JUDGE DUGGAN: Does anybody have
2 anything else?

3 MR. PARRISH: No.

4 MR. HEALEY: No, your Honor.

5 JUDGE DUGGAN: Okay. We'll mark the
6 record heard and taken. Thank you.

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